

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARMANDO MEDINA-VARGAS,

Defendant.

**8:15CR52**

**MEMORANDUM AND ORDER**

This matter is before the Court on defendant's motion for compassionate release, [Filing No. 52](#), and on the government's motion for dismissal, [Filing No. 54](#). The government charged defendant in a two-count indictment with conspiracy to distribute 50 grams or more of actual methamphetamine in violation of [21 U.S.C. §§ 841\(a\)\(1\)](#), [841\(b\)\(1\)](#), and [846](#), and possession of 50 grams or more of actual methamphetamine with the intent to distribute, in violation of [21 U.S.C. §§ 841\(a\)\(1\)](#) and [841\(b\)\(1\)](#). [Filing No. 1](#). Both offenses carry a statutory mandatory minimum sentence of 10 years, and were punishable by up to life imprisonment, a \$10,000,000 fine, and not less than 5 years of supervised release. Defendant thereafter filed a motion under [28 U.S.C. § 2255](#), [Filing No. 42](#), which this Court denied. [Filing Nos. 50](#) and [51](#).

Following the filing of the compassionate release motion, this Court ordered the defendant to exhaust his administrative remedies within 60 days and advise the Court of the same. [Filing No. 53](#), June 28, 2022. He has not provided the Court with any information regarding his exhaustion. In addition, the Court ordered the defendant to provide a suggested place of home detention. He has likewise not provided the Court

with that information. *Id.* The Court ordered that “[f]ailure to document the filing of the administrative request with the Bureau of Prisons as well as either the response by the Bureau of Prisons or a showing of the passage of 30 days, may result in the dismissal of the motion for compassionate release.” *Id.* The Court ordered the Public Defender’s office to represent the defendant. On October 27, 2022, a notice of attorney appearance was filed by Cheryl Kessell, and she then filed an amended notice of appearance, Filing Nos. 55 and 56.

Nothing has been filed as Ordered in this Court’s Memorandum and Order since June 28, 2023. As a result, the Court will give the defendant 30 days from the date of this order to comply with that Order. Failure to do so will result in dismissal of this case. The Court will deny the government’s motion for dismissal at this time, but it is subject to reassertion in 30 days if the defendant fails to comply.

**THEREFORE, IT IS ORDERED THAT:**

1. Defendant has 30 days from the date of this Memorandum and Order to respond as directed in [Filing No. 53](#). Failure to do so will result in dismissal of defendant’s motion for compassionate release.
2. The motion to dismiss, [Filing No. 54](#), is denied at this time, but is subject to reassertion if the defendant fails to comply with this Memorandum and Order and with [Filing No. 53](#).

Dated this 8th day of February, 2023.

BY THE COURT:

s/ Joseph F. Bataillon  
Senior United States District Judge